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In re Application of	:	
NGUYEN et al.	:	
Application No.: 10/561,749	:	DECISION
PCT No.: PCT/GB2004/002267	:	
Int. Filing Date: 28 May 2004	:	
Priority Date: 26 June 2003	:	
Attorney Docket No.: 102792-133 (11256P3 US)	:	
For: IMPROVED DISPENSING DEVICE	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 29 September 2006 in the United States Patent and Trademark Office (USPTO).

### **BACKGROUND**

On 28 May 2004, applicants filed international application PCT/GB2004/002267, which designated the United States and claimed a priority date of 26 June 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 06 January 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 December 2005 (26 December 2005 being a Federal holiday).

On 21 December 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 22 February 2006, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, a declaration of facts by Andrew N. Parfomak, a copy of a letter from Mr. Parfomak to non-signing inventor Lamson Nguyen, and a copy of a Federal Express receipt.

On 13 September 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort had not been provided.

On 29 September 2006, applicants filed the instant renewed petition which includes, *inter alia*, a copy of a letter from Mr. Parfomak to non-signing inventor Lamson Nguyen dated 31

March 2006; a FedEx tracking statement for the letter dated 31 March 2006; a copy of a letter from Mr. Parfomak to non-signing inventor Lamson Nguyen dated 07 April 2006; and a copy of delivery information from FedEx for the letter dated 07 April 2006.

#### **DISCUSSION**

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As noted in the decision mailed 13 September 2006, items (1), (3), and (4) have been satisfied.

Item (2) has now been satisfied. The evidence of record indicates that Mr. Lamson Nguen has been presented with a copy of the application papers several times and his conduct constitutes a refusal to sign.

#### **CONCLUSION**

For the above reasons, applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **22 February 2006**.



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